



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,470	04/15/2004	Charles Joseph Dellis	136845	8120

7590 04/19/2007
Dean D. Small
Armstrong Teasdale LLP
Suite 2600
One Metropolitan Square
St. Louis, MO 63102

EXAMINER

LAMPRECHT, JOEL

ART UNIT PAPER NUMBER

3737

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/825,470

Applicant(s)

DELLIS, CHARLES JOSEPH

Examiner

Joel M. Lamprecht

Art Unit

3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/10/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 2, 7, 21, 22, 25, 29, 31, and 32 are rejected under 35 U.S.C. 101 because they are in reference to individuals and not directly to a process, machine, manufacture or composition of matter. In particular the language of "individuals having expertise in different areas of medical imaging, or individuals not associated with the entity having the medical imaging system" is related to non-statutory matter under U.S.C. 101.

Appropriate correction is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3-14, 16-20, 23-28, 30, 33-39 rejected under 35 U.S.C. 102(e) as being anticipated by Suresh et al (US 2004/0153128). Suresh et al disclose a method and system for image processing including configuring a medical system for remote access and performing post-processing operations on the image information from one of a

number of locations via public telecom infrastructure ([35], Figure 1, [139 and 140-146], a local private network [140-146], a medical imaging device [148], at least one workstation [Figure 1], allowing access from the medical imaging system in real-time [175-177, 205, 213, 230, 501-513], receiving post-processed information [511-513], storing post-processed information [141], restricting access [145-147], functionality and securing the network [145-147].

Regarding Claims 16 and 37, Suresh et al disclose a system of incentive-based rewards including monetary rewards to track the assistance of those helping with diagnosis and providing post-processed assessments of patients as well as the additional planning of further procedures and courses of action [216-218]. While not a direct "billing" system, such a system is capable of acting as a per-assistance billing or reward system and additionally provides a means of tracking the efforts of individuals accessing the image information remotely.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3-15, 16-20, 23-28, 30, 33-39 rejected under 35 U.S.C. 103(a) as being unpatentable over Suresh et al. in view of Schweikard et al (US 6,501,981). Suresh et al disclose a majority of the invention as claimed including a method and system for

image processing including configuring a medical system for remote access and performing post-processing operations on the image information from one of a number of locations via public telecom infrastructure ([35], Figure 1, [139 and 140-146], a local private network [140-146], a medical imaging device [148], at least one workstation [Figure 1], allowing access from the medical imaging system in real-time [175-177, 205, 213, 230, 501-513], receiving post-processed information [511-513], storing post-processed information [141], restricting access [145-147], functionality and securing the network [145-147].

Regarding Claims 16 and 37, Suresh et al disclose a system of incentive-based rewards including monetary rewards to track the assistance of those helping with diagnosis and providing post-processed assessments of patients as well as the additional planning of further procedures and courses of action [216-218]. While not a direct “billing” system, such a system is capable of acting as a per-assistance billing or reward system and additionally provides a means of tracking the efforts of individuals accessing the image information remotely.

Suresh et al do not disclose a method of remote control of an imaging system including the motion of a table, gantry, or the imaging system itself. Attention is then directed to the secondary reference by Schweikard et al which describes a method for remote controlling an imaging system during a radiosurgical procedure. Their particular disclosure provides remote methods for motion of an imaging system, as well as compensation for motion artifacts via an adaptable marker-based motion detection system (Col 10 Line 55- Col 11 Line 55). It would have been obvious to one having

Art Unit: 3737

ordinary skill in the art at the time of the invention to have utilized the radiosurgery control methods disclosed by Schweikard et al with the post-surgery assessment and remote access data sharing methods of Suresh et al for the purpose of acquiring a plurality of opinions on the course of action required for a particular patient.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joel M. Lamprecht whose telephone number is (571) 272-3250. The examiner can normally be reached on Monday-Friday 7:30AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian L. Casler can be reached on (571)272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3737

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
4/13/07

Handwritten signature
EBC / MANUSCRIPT
SPF 3768